

For a certificate if, in the opinion of the council, the proposed project would result in any material increase in the number of persons who would result in a substantial change in the number of persons provided in the alternatives set forth in the alternatives. The council may, in its discretion, return the certificate to the applicant with a copy of the certificate to the applicant with a copy of the certificate. The council may hold a hearing on a resolution of the council not more than sixty days after adoption of the resolution in subsection (a) of this section. The council may receive from the certificate holder or the applicant within twenty days after publication of the resolution not less than thirty days nor more than sixty days in the manner as provided in subsection (a) of this section. The council is deemed to be located for purposes of a hearing on the portion of the facility proposed

location of each hearing to be mailed, in addition, to the applicant and each person named in the application or resolution. The general heading shall be in ten point, boldface type.

which may be common to more than
the members of the council.

Resolution held pursuant to this section, the
oral hearing.

1975, S. 4, 12; 75-509, S. 2-4; P.A. 76-282, S. 2, 3; P.A.

to be in more than one county in Subsec. (a); P.A. 75-375 required that hearing days after receipt of application, clarified applicable hearing; P.A. 75-509 required one evening session of ten ten-point, boldface type"; P.A. 76-282 added P.A. 75-375 clarified language by making minor changes and between thirty and sixty days after its receipt and to add that the first hearing session be held in the county in

216 C. 1, 4.

C. 1, 5.

amendment proceeding or a declaratory judgment and consultant to council. Limited amendment proceeding or to a declaratory judgment, certificate holder, or petitioner; (2) each resolution under section 16-501, if such to be a party; (3) any domestic or qualified person or in part to promote conservation or public health or biological values, to preserve and to represent commercial and industrial uses of the areas in which the facility is to be

located, if it has filed with the council a notice of intent to be a party; and (4) such other persons as the council may at any time deem appropriate.

(b) The council may permit any person to participate as an intervenor, in accordance with the provisions of section 4-177a, in a certification or amendment proceeding or a declaratory ruling proceeding.

(c) The council in its discretion may provide for the grouping of parties and intervenors with the same interests. If such a group does not designate an agent for the service of notice and documents, the council shall designate such an agent, and notice and documents need be served only on the designated agent. Notwithstanding the provisions of this subsection, any party or intervenor who has been included in a group may, at any time by oral or written notice to the council, elect not to be a member of the group to the extent specified in such notice.

(d) The attorney general shall appoint an assistant attorney general or a special assistant attorney general to act as counsel for the Connecticut Siting Council.

(e) Upon receipt of the application, the council may employ one or more independent consultants to study and measure the consequences of the proposed facility on the environment. The council shall direct such consultant or consultants to study any matter that the council deems important to an adequate appraisal of the application. Any such study and any report issued as a result thereof shall be part of the record of the proceeding.

(f) Any person may make a limited appearance at a hearing held pursuant to the provisions of section 16-50m, prior thereto or within thirty days thereafter, entitling such person to file a statement in writing. At the discretion of the council any person may make a limited appearance at any such hearing to present an oral statement under oath. All papers and matters filed by a person making a limited appearance shall become part of the record. No person making a limited appearance, and not otherwise entitled to be a party, shall be a party or shall have the right to cross-examine witnesses, parties or intervenors.

(1971, P.A. 575, S. 8; P.A. 73-458, S. 7; P.A. 75-375, S. 5, 12; P.A. 79-537, S. 3; P.A. 86-187, S. 6, 10; P.A. 89-45, S. 3, 4; P.A. 90-230, S. 84, 101.)

History: P.A. 73-458 amended Subdiv. (2) of Subsec. (a) to include as parties persons giving notice of intent to be a party, rather than persons who have not given notice that they do not want to be parties and clarified limited appearances in Subsec. (d) by replacing reference to appearance "at any time in the proceeding" with reference to appearance before hearing or within thirty days after hearing and provided that persons making limited appearance are not subject to cross-examination; P.A. 75-375 deleted fifteen-day deadline for filing of intent to be a party in Subsec. (a)(2), inserted new Subsec. (b) re grouping of parties and relettered former Subsecs. (b) to (d) as (c) to (e); P.A. 79-537 added references to amendment proceedings, certificate holders and resolutions in Subsec. (a) and deleted twenty-day deadline for filing of notice of intent by nonprofit corporations under Subsec. (a)(3); P.A. 86-187 replaced power facility evaluation council with Connecticut siting council in Subsec. (c); P.A. 89-45 included provision in Subsec. (a) allowing council to issue declaratory rulings, added Subsec. (b) permitting intervenors in council proceeding, included provision in Subsec. (f) re limited appearances at hearings to present oral statement and relettered Subsecs. (b), (c), (d) and (e) as Subsecs. (c), (d), (e) and (f); P.A. 90-230 made technical change to Subsec. (b).

Cited. 177 C. 623, 625.

Subsec. (a):

Cited. 20 CA 474, 486.

Subsec. (d):

Cited. 20 CA 474, 485.

Sec. 16-50o. Record of hearing. Rights of parties. (a) A record shall be made of the hearing and of all testimony taken and the cross-examinations thereon. Every party or group of parties as provided in section 16-50n shall have the right to present such oral or documentary evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(b) A copy of the record shall be available at all reasonable times for examination by the public without cost at the principal office of the council. A copy of the transcript of testimony at the hearing shall be filed at an appropriate public office, as determined by the council, in each county in which the facility or any part thereof is proposed to be located.

(1971, P.A. 575, S. 9; P.A. 75-375, S. 6, 12.)

History: P.A. 75-375 included grouped parties in Subsec. (a) and required transcript copy to be filed at designated public office in county rather than municipality where facility to be located.

Sec. 16-50p. Certification proceeding decisions: Timing, opinion, factors considered. Telecommunications and community antenna television facilities: Additional factors considered, conditions. Modification of location. Amendment proceeding decisions. Service and notice. (a) In a certification proceeding, the council shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions, limitations or modifications of the construction or operation of the facility as the council may deem appropriate. The council's decision shall be rendered within twelve months of the filing of an application concerning a facility described in subdivisions (1) to (3), inclusive, of subsection (a) of section 16-50i or subdivision (4) of said subsection if the application was incorporated in an application concerning a facility described in subdivision (1) of said subsection, and within one hundred eighty days of the filing of any other application concerning a facility described in subdivision (4) of said subsection and an application concerning a facility described in subdivisions (5) and (6) of said subsection, provided such time periods may be extended by the council by not more than one hundred eighty days with the consent of the applicant. The council shall file, with its order, an opinion stating in full its reasons for the decision. The council shall not grant a certificate, either as proposed or as modified by the council, unless it shall find and determine: (1) A public need for the facility and the basis of the need; (2) the nature of the probable environmental impact, including a specification of every significant adverse effect, whether alone or cumulatively with other effects, on, and conflict with the policies of the state concerning, the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forests and parks, air and water purity and fish and wildlife; (3) why the adverse effects or conflicts referred to in subdivision (2) of this subsection are not sufficient reason to deny the application; (4) in the case of an electric transmission line, (A) what part, if any, of the facility shall be located overhead, (B) that the facility conforms to a long-range plan for expansion of the electric power grid of the electric systems serving the state and interconnected utility systems and will serve the interests of electric system economy and reliability, and (C) that the overhead portions of the facility, if any, are cost effective and the most appropriate alternative based on a life-cycle cost analysis of the facility and underground alternatives to such facility, and are consistent with the purposes of this chapter, with such regulations as the council may adopt pursuant to subsection (a) of section 16-50t, and with the Federal Power Commission "Guidelines for the Protection of Natural Historic Scenic and Recreational Values in the Design and Location of Rights-of-Way and Transmission Facilities" or any successor guidelines and any other applicable federal guidelines; (5) in the case of an electric or fuel transmission line, that the location of the line will not pose an undue hazard to persons or property along the area traversed by the line.

(b) (1) Prior to granting an applicant's certificate for a facility described in subdivision (5) or (6) of section 16-50i, the council shall examine, in addition to its consideration of subdivisions (1) to (5), inclusive, of subsection (a) of this section: (A) The feasibility of requiring an applicant to share an existing facility, as defined in subsection (b) of section 16-50aa, within a technically derived search area of the site of the proposed facility, provided such shared use is technically, legally, environmentally and economically feasible

at all reasonable times for examination by the council. A copy of the transcript of testimony shall be made available to the public in the public office, as determined by the council, in which the hearing is proposed to be located.

and required transcript copy to be filed at designated public

Antenna television facilities: Additional location. Amendment proceeding decision. In a proceeding, the council shall render a decision upon the application as filed, or granting it upon conditions of the construction or operation of the facility. The council's decision shall be rendered within thirty days concerning a facility described in subdivisions (1) through (6) or subdivision (4) of said subsection 16-50i or subdivision (4) of said subsection 16-50j. Within eighty days of the filing of any other application under subdivision (4) of said subsection and an application under subdivisions (5) and (6) of said subsection, the council by not more than one hundred percent vote shall file, with its order, an opinion stating whether the council shall not grant a certificate, either wholly or in part, if it shall find and determine: (1) A public health and safety hazard; (2) the nature of the probable environmental impact or significant adverse effect, whether alone or in combination with the policies of the state concerning, the protection of public health and safety, scenic, historic and cultural resources, water purity and fish and wildlife; (3) why the reasons stated in division (2) of this subsection are not sufficient to justify the proposed electric transmission line, (A) what part of the line is proposed, (B) that the facility conforms to a long-range plan for the electric systems serving the state and the interests of electric system economy and efficiency, and (C) the costs of the facility, if any, are cost effective and the benefits outweigh the costs; (4) the life cycle cost analysis of the facility and undergrounding is consistent with the purposes of this chapter, with the provisions of subsection (a) of section 16-50t, and the provisions of the Protection of Natural Historic Scenery and Places Act; (5) the location of Rights-of-Way and Transmission Line Location of Rights-of-Way and Transmission Line applicable federal guidelines; (6) in the case of a new facility, the location of the line will not pose an undue burden on the land traversed by the line.

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and meets public safety concerns, (B) whether such facility, if constructed, may be shared with any public or private entity which provides telecommunications or community antenna television service to the public, provided such shared use is technically, legally, environmentally and economically feasible at fair market rates, meets public safety concerns, and the parties' interests have been considered and (C) whether the proposed facility would be located in an area of the state which the council, in consultation with the department of environmental protection and any affected municipalities, finds to be a relatively undisturbed area that possesses scenic quality of local, regional or state-wide significance. The council may deny an application for a certificate if it determines that (i) shared use under the provisions of subparagraph (A) of this subdivision is feasible, (ii) the applicant would not cooperate relative to the future shared use of the proposed facility, or (iii) the proposed facility would substantially affect the scenic quality of its location and no public safety concerns require that the proposed facility be constructed in such a location.

(2) When issuing a certificate for a facility described in subdivision (5) or (6) of subsection (a) of section 16-50i, the council may impose such reasonable conditions as it deems necessary to promote immediate and future shared use of such facilities and avoid the unnecessary proliferation of such facilities in the state. The council shall, prior to issuing a certificate, provide notice of the proposed facility to the municipality in which the facility is to be located. Upon motion of the council, written request by a public or private entity which provides telecommunications or community antenna television service to the public or upon written request by an interested party, the council may conduct a preliminary investigation to determine whether the holder of a certificate for such a facility is in compliance with the certificate. Following its investigation, the council may initiate a certificate review proceeding, which shall include a hearing, to determine whether the holder of a certificate for such a facility is in compliance with the certificate. In such proceeding, the council shall render a decision and may issue orders which it deems necessary to compel compliance with the certificate, which orders may include, but not be limited to, revocation of the certificate. Such orders may be enforced in accordance with the provisions of section 16-50u.

(c) If the council determines that the location of all or a part of the proposed facility should be modified, it may condition the certificate upon such modification, provided the municipalities, and persons residing or located in such municipalities, affected by the modification shall have had notice of the application as provided in subsection (b) of section 16-501.

(d) In an amendment proceeding, the council shall render a decision within ninety days of the filing of the application or adoption of the resolution initiating the proceeding. The council shall file an opinion with its order stating its reasons for the decision. The council's decision shall include the findings and determinations enumerated in subsection (a) of this section which are relevant to the proposed amendment.

(e) A copy of the order and opinion issued therewith shall be served upon each party and a notice of the issuance of the order and opinion shall be published in such newspapers as will serve substantially to inform the public of the issuance of such order and opinion. The name and address of each party shall be set forth in the order.

(f) In making its decision as to whether or not to issue a certificate, the council shall in no way be limited by the fact that the applicant may already have acquired land or an interest therein for the purpose of constructing the facility which is the subject of its application.

(1971, P.A. 575, S. 10; P.A. 73-340, S. 1, 2; 73-458, S. 8; P.A. 75-375, S. 7, 12; P.A. 76-320, S. 1, 2; 76-359, S. 3, 7; P.A. 77-218, S. 4; P.A. 79-537, S. 4; P.A. 80-483, S. 66, 186; P.A. 83-569, S. 5, 17; P.A. 88-121, S. 1, 3; P.A. 93-268, S. 1; P.A. 94-176, S. 3.)

History: P.A. 73-340 added Subsec. (d) re irrelevance of applicant's prior acquisition of land; P.A. 73-458 amended Subsec. (a) to clarify Subdiv. (2) by specifying "significant" adverse effects "whether alone or cumulatively ...", to add "that will provide, in accordance with the need for adequate and reliable electric service" in Subdiv. (4)(B) and to delete Subdiv. (6) re conformity of facility location to state and local laws; P.A. 75-375 amended Subsec. (a) to require decision within ten months rather than one year, to delete reference in Subdiv. (4)(B) to elimination of overhead lines in accordance with need for adequate and reliable service and to require consistency with purposes of Ch. 277a and adopted regulations as well as with federal guidelines under Subdiv. (4)(C); P.A. 76-320 made technical change in Subsec. (b) and amended Subsec. (c) to require publication of notice of issuance of order and opinion rather than publication of copy of order and opinion; P.A. 76-359 rephrased Subsec. (d); P.A. 77-218 made ten-month deadline applicable to applications for facilities in Subdivs. (1) to (4), inclusive, of Sec. 16-50i(a), imposed one hundred-twenty-day deadline for those in Subdivs. (5) and (6) and made provision for extensions under Subsec. (a); P.A. 79-537 made clear that provisions apply to certification proceedings, inserted new Subsec. (c) re amendment proceedings and redesignated former Subsecs. (c) and (d) accordingly; P.A. 80-483 made technical changes; P.A. 83-569 amended Subsec. (a) to establish a time limit for council decisions affecting substations and switchyards; P.A. 88-121 amended Subsec. (a) increasing the council's time to render decisions on applications; P.A. 93-268 inserted new Subsec. (b) regarding factors considered in granting and conditions of a certificate for a facility described in Subdiv. (5) or (6) of Subsec. (a) of Sec. 16-50i and relettered former Subsecs. (b) to (e) as (c) to (f); P.A. 94-176 amended Subsec. (a) by adding provision in Subpara. (C) of Subdiv. (4) re life-cycle cost analysis of the facility and underground alternatives.

Cited. 212 C. 157, 160. Cited. 215 C. 474, 476.

Cited. 20 CA 474, 489.

Subsec. (a):

Cited. 20 CA 474, 488, 491.

Subsec. (c):

Cited. 177 C. 623, 626.

Sec. 16-50q. Judicial review. Any party may obtain judicial review of an order issued on an application for a certificate or an amendment of a certificate in accordance with the provisions of section 4-183. Any judicial review sought pursuant to this chapter shall be privileged in respect to assignment for trial in the superior court.

(1971, P.A. 575, S. 11; 1972, P.A. 108, S. 3; P.A. 73-458, S. 9; P.A. 76-436, S. 360, 681; P.A. 77-603, S. 14, 125.)

History: 1972 act replaced superior court with court of common pleas, effective September 1, 1972, except that courts with cases pending retain jurisdiction; P.A. 73-458 deleted provisions re rehearing on applications as intermediate step to judicial review and deleted provision re finding of facts de novo; P.A. 76-436 replaced court of common pleas with superior court and added reference to judicial districts, effective July 1, 1978; P.A. 77-603 replaced previous provision detailing procedure for judicial review with statement that review to be obtained in accordance with Sec. 4-183.

Since appellate review for both issuance of original certificates and for amendments thereto is provided for, it is not intended that application for amendment opens, for all purposes including appellate review, the previously issued granting of certification. 177 C. 623, 627. Cited. 212 C. 157, 161. Cited. 220 C. 516, 519, 520.

Sec. 16-50r. Report of forecast of loads and resources. Investigation of life-cycle costs for overhead and underground transmission lines: Scope, hearings, consultants, assessment. (a) Every person engaged in generating electric power in the state, except a private power producer, as defined in section 16-243b, shall, annually, on or before March first, furnish a report to the council for its review containing a twenty-year forecast of loads and resources. The report shall describe the facilities that, in the judgment of such utility, will be required to supply system demands during the forecast period. The report shall cover the twenty-year period beginning with the year of the report. The report shall be made available to the public and shall be furnished to the chief executive officer of each municipality in the service area of such utility, the regional planning agency which encompasses each such municipality, the attorney general, the president pro tempore of the senate, the speaker of the house of representatives, each member of the joint standing committee of the general assembly having cognizance of matters relating to energy planning and activities, any other member of the general assembly making a written request to the council for the report, each state department, agency and commission named in subsection (h) of section 16-50j and such other state and municipal bodies as the council may by regulation designate. The report shall include: (1) A tabulation of estimated peak loads, resources and margins for each year; (2) data on energy use and peak loads for the five preceding calendar years; (3) a list of existing generating facilities in service; (4) a list of scheduled generating facilities for which property has been acquired, for which certificates have been issued and for which certificate applications have been filed; (5) a list of planned generating units at plant locations for which prop-

tioner shall pay the council the amount indicated in the order not later than thirty days after the date of the order.

(d) The council shall remit all payments received pursuant to this section to the state treasurer for deposit in the Siting Council Fund. Such payments shall be accounted for as expenses recovered from electric power suppliers. All payments made under this section shall be in addition to any taxes payable to the state under chapters 211, 212, 212a and 219.

(e) An assessment unpaid on the due date or any portion of an assessment withheld after the due date under this section shall be subject to interest at the rate of one and one-fourth per cent per month or fraction thereof.

(1971, P.A. 575, S. 13; P.A. 75-486, S. 18, 69; P.A. 76-323, S. 1, 2; P.A. 78-119; P.A. 79-214, S. 4; P.A. 81-439, S. 5, 14; P.A. 82-222, S. 5, 7; P.A. 89-291, S. 7; P.A. 94-176, S. 2; May 25 Sp. Sess. P.A. 94-1, S. 103, 130.)

History: P.A. 75-486 required filing of description of methodology used to arrive at load forecasts; P.A. 76-323 replaced requirement that report be furnished to "persons listed in subdivision (2)(A) of section 16-50(b)" with list of persons, departments, agencies etc. to receive report and added provision re hearings to be held on reports; P.A. 78-119 changed filing deadline from January to March, replaced twenty-year period "next succeeding the date" of report with period "beginning with the year" of report and added new Subdiv. (2) re data on energy use and peak loads for five previous years, renumbering former Subdivs. (2) to (6), inclusive, accordingly; P.A. 79-214 added Subsec. (b) re simplified statements of loads and resources by producers using cogeneration technology; P.A. 81-439 excepted private power producers from ten-year forecast requirement, repealed Subsec. (b), eliminating reporting by person producing electricity by cogeneration or use of renewable fuel resources and added provision requiring report by purchaser of electricity from private power producer having facility generating more than one megawatt; P.A. 82-222 required forecast report to be furnished only to senate president, house speaker, energy committee members and other general assembly members requesting it, instead of to all general assembly members; P.A. 89-291 changed annual report from ten-year to a twenty-year forecast of loads and resources; P.A. 94-176 designated existing provisions as Subsec. (a) and changed reference from Subsec. (f) to Subsec. (j) of Sec. 16-50j and added Subsecs. (b) to (e) re investigation of life-cycle costs for overhead and underground transmission line alternatives; May 25 Sp. Sess. P.A. 94-1 amended Subsec. (c) by making technical change.

Sec. 16-50s. Expenditures by utilities as consideration in proceedings. The council may give appropriate consideration in all proceedings to (1) the amounts expended by a utility for research on generation and transmission of the form of energy furnished by it and the environmental effect thereof, (2) the amounts expended by such utility for promotion, including advertising, of the use of the form of energy furnished by it and (3) the relationship between such expenditures.

(1971, P.A. 575, S. 14.)

Sec. 16-50t. Regulations and standards. Hearing. Certain expenditures excluded in computation of fair net return. (a) The council shall prescribe and establish such reasonable regulations and standards in accordance with the provisions of chapter 54 as it deems necessary and in the public interest with respect to application fees, siting of facilities and environmental standards applicable to facilities, including, but not limited to, regulations or standards relating to: (1) Reliability, effluents, thermal effects, air and water emissions, protection of fish and wildlife and other environmental factors; (2) the methodical upgrading or elimination of facilities over appropriate periods of time to meet the standards established pursuant to this subsection or other applicable laws, standards or regulations; and (3) the elimination of overhead electric transmission and distribution lines over appropriate periods of time in accordance with existing applicable technology and the need to provide electric service at the lowest reasonable cost to consumers.

(b) The council may adopt regulations or standards in accordance with the provisions of chapter 54, with respect to subdivisions (1) and (2) of subsection (a) of this section. Such regulations or standards shall be in addition to and not in lieu of any regulation or standard adopted by any other state or local agency or instrumentality. No such regulation or standard

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P.A. 78-119; P.A. 79-214, S. 4; P.A. 81-439, S. 5.
25 Sp. Sess. P.A. 94-1, S. 103, 130.)

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hold on reports; P.A. 78-119 changed filing deadline
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five previous years, renumbering former Subdiv.
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shall be adopted by the council without one or more public hearings at which members of the public are given adequate opportunity to be heard.

(c) Expenditures by a utility shall not be considered a necessary and proper expense for the purpose of computing fair net return on invested capital, if such expenditures were incurred (1) for fines, forfeitures and other penalties, including legal fees and other expenses incurred in connection therewith, imposed for failure to comply with any state or federal environmental or pollution standard or (2) in connection with any action described in section 16-50k(a) prior to issuance of a certificate therefor.

(1971, P.A. 575, S. 15; P.A. 73-458, S. 10; P.A. 75-375, S. 8, 12; P.A. 88-317, S. 62, 107.)

History: P.A. 73-458 replaced references to repealed Secs. 4-41 to 4-50 with reference to Secs. 4-166 to 4-185, qualified requirement that overhead lines be eliminated in Subsec. (a)(3) with "in accordance with existing applicable technology" and replaced reference in Subsec. (b) to Subdivs. (2) and (3) of Subsec. (a) with reference to Subdivs. (1) and (2); P.A. 75-375 deleted "methodical" referring to elimination of overhead lines in Subsec. (a) (3) and added provision for regulations on "the need to provide electric service at the lowest reasonable cost to consumers"; P.A. 88-317 substituted "chapter 54" for "sections 4-166 to 4-185, inclusive," in Subsecs. (a) and (b), effective July 1, 1989, and applicable to all agency proceedings commencing on or after that date.

Sec. 16-50u. Enforcement of certificate and standards requirements. The council shall take reasonable steps to insure that each facility for which a certificate has been issued is constructed, maintained and operated in compliance with such certificate and any other standards established pursuant to this chapter. Whenever the council deems it necessary to verify such compliance and whenever the meeting of any such other standards involves expenses, the person to whom such certificate has been issued shall be charged with and pay such expenses. The courts are authorized to grant such restraining orders, and such temporary and permanent injunctive relief, as may be necessary to secure compliance with this chapter and with a certificate issued pursuant to this chapter. The courts may assess civil penalties in an amount not less than one thousand dollars per day for each day of construction or operation in material violation of this chapter, or in material violation of any certificate issued pursuant to this chapter. Civil proceedings to enforce this chapter may be brought by the attorney general in the superior court for any judicial district affected by the violation. The remedies and penalties in this section shall be cumulative and shall be in addition to any other penalties and remedies available at law, or in equity, to any person.

(1971, P.A. 575, S. 16; P.A. 73-458, S. 11; P.A. 78-280, S. 2, 127.)

History: P.A. 73-458 substituted "established pursuant to this chapter" for "applicable to such facility" as phrase modifying "standards"; P.A. 78-280 replaced "county" with "judicial district".

Sec. 16-50v. Administration expenses. Assessments. Fees. Staff. Consultants. Studies. (a) All expenses of administering this chapter, including the functions of the council and its staff, shall be financed as provided in this section.

(b) (1) Before December thirty-first of each year, the council shall review the anticipated amount of expenses attributable to energy facilities for the next fiscal year, excluding expenses under subsection (c), (d), (e), (g) or (h) of this section at a public meeting, notice of which shall be given to each person subject to assessment under this subsection, and at which interested persons shall be heard. After the meeting, the council shall determine the anticipated amount of such expenses and submit its determination to the joint standing committee of the general assembly having cognizance of appropriations and the budgets of state agencies. After the committee completes its review, the council shall apportion and assess the anticipated amount of expenses among those persons having gross revenue from the sale of electric power at retail in the state in excess of one hundred thousand dollars during the preceding calendar year, in the proportion which the gross revenue of each such person bears

to the aggregate gross revenues of all such persons. Each such person shall pay the assessment in three equal instalments on or before July thirty-first, October thirty-first, and January thirty-first of the fiscal year. During the fiscal year the council may further apportion and assess the additional amount of such expenses as could not reasonably have been anticipated prior to the fiscal year, apportioned in the same manner after notice and hearing in the same manner. The total of such assessments for any fiscal year shall not exceed one million dollars. No proceeds from any assessment under this subsection may be used by the council after June 30, 1984, for any proceedings concerning hazardous waste facilities.

(2) As used in this subdivision, "communications services" means services involving transmitting or receiving signals in the electromagnetic spectrum for a public or commercial purpose pursuant to a Federal Communications Commission license. Before December thirty-first of each year, the council shall review the anticipated amount of administrative expenses attributable to facilities used for providing communications services for the next fiscal year, excluding expenses under subsection (c), (d), (e), (g) or (h) of this section, at a public meeting, notice of which shall be given to each person subject to assessment under this subsection, and at which interested persons shall be heard. After the meeting, the council shall determine the anticipated amount of such expenses and submit its determination to the joint standing committee of the general assembly having cognizance of matters relating to appropriations and the budgets of state agencies. Upon notification of the council, the commissioner of revenue services shall apportion and assess the anticipated amount of expenses equally among those persons which provide communications services, have come before the council in the preceding calendar year and have gross revenue from the sale of communications services at retail in the state in excess of one hundred thousand dollars during the preceding calendar year. Each such person shall pay the assessment and submit a return, on a form prescribed by the commissioner, to the commissioner of revenue services in four equal instalments, on or before July 1, 1994, and July thirty-first of each year thereafter, October 31, 1994, and October thirty-first of each year thereafter, January 31, 1995, and January thirty-first of each year thereafter, and April 30, 1995, and April thirtieth of each year thereafter. The commissioner shall transfer all payments received pursuant to this section to the treasurer who shall credit such payments to the siting council fund. Such payments shall be considered administrative expenses recovered from communications services providers.

(c) The fee for each application for a certificate for a facility described in subdivisions (1) to (4), inclusive, of subsection (a) of section 16-50i, shall be used to meet the expenses of the council in connection with the review of, hearing on and decision on the application, including the expenses of any consultant employed by the council under subsection (d) of section 16-50n. The council shall, by regulation, adjust the fees to meet the expenses. In addition, the council may assess the applicant during the proceeding on the application and thereafter, as may be necessary to meet the expenses. The amount of any fees and assessments paid under this subsection which are in excess of the expenses of the council in reviewing and acting upon the application for which the fees and assessments were paid shall be refunded within sixty days after completion of the matter.

(d) The fee for each application for a certificate for a facility described in subdivisions (5) and (6) of subsection (a) of section 16-50i or for a determination regarding shared use of a facility used for providing communications services, as defined in subdivision (2) of subsection (b) of this section, shall be established by regulation and used for the administrative expenses of the council and its staff incurred in processing the application or determination. In the event a hearing is held on any such application or determination, the council may

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Each such person shall pay the assessment first, October thirty-first, and January first, the council may further apportion and shall not reasonably have been anticipated prior after notice and hearing in the same year shall not exceed one million dollars. Subsection may be used by the council for hazardous waste facilities.

"communications services" means services involving the electric spectrum for a public or commercial communications license. Before December first, the anticipated amount of administrative expenses for communications services for the next year, (d), (e), (g) or (h) of this section, at a public meeting, each person subject to assessment under this section shall be heard. After the meeting, the council shall review responses and submit its determination to the council having cognizance of matters relating to the council. Upon notification of the council, the council shall assess the anticipated amount of expenses for communications services, have come from the sale of electric power at retail in excess of one hundred thousand dollars during the preceding calendar year, shall pay the assessment and submit a copy to the commissioner of revenue services on July thirty-first of each year thereafter, January 31, 1995, April 30, 1995, and April thirtieth of each year thereafter, all payments received pursuant to this section shall be deposited to the siting council fund. Such payments shall be recovered from communications services

for a facility described in subdivisions 16-50i, shall be used to meet the expenses of the council in reviewing and acting upon the application. The council under subsection (d) of section 16-50i shall adjust the fees to meet the expenses. In reviewing the proceeding on the application and the council's determination. The amount of any fees and assessments of the expenses of the council in reviewing and acting upon the application, statement of intent, petition for an advisory ruling, notice of modification or appeal for which the fees and assessments were paid shall be refunded within sixty days after completion of the matter.

for a facility described in subdivisions 16-50i, shall be used to meet the expenses of the council in reviewing and acting upon the application, statement of intent, petition for an advisory ruling, notice of modification or appeal for which the fees and assessments were paid shall be refunded within sixty days after completion of the matter.

assess an applicant during the proceeding and thereafter for all expenses of the council in connection with the review of, hearing on and decision on such application or determination, including the expenses of any consultant employed by the council pursuant to subsection (d) of section 16-50n.

(e) With regard to any facility described in subsection (a) of section 16-50i, the council shall, by regulation, establish such filing fees and provide for such assessments as may be necessary to meet the expenses of the council and its staff in reviewing and acting upon each application for an amendment of a certificate, each statement of intent to acquire property prior to the issuance of a certificate, each petition for an advisory ruling, each notice of modification and each appeal pursuant to subsection (d) of section 16-50x. The amount of any fees and assessments paid under this subsection which are in excess of the expenses of the council in reviewing and acting upon the application, statement of intent, petition for an advisory ruling, notice of modification or appeal for which the fees and assessments were paid shall be refunded within sixty days after completion of the matter.

(f) The council shall obtain such full-time and part-time staff and consultants as may be appropriate to carry out its duties and the provisions of this chapter.

(g) The council may undertake such studies as it deems necessary to carry out its duties under subdivision (2) of subsection (a) of section 16-50t. The council shall apportion and assess its expenses for consultants, hearing facilities and stenographic reports and other reasonable and necessary expenses to carry out its duties under subsection (a) of section 16-50t among those persons having gross revenue from the sale of electric power at retail in excess of one hundred thousand dollars during the preceding calendar year, in the proportion which the gross revenue of each such person bears to the aggregate gross revenues of all such persons. Each such person shall pay the assessment within thirty days. Before incurring expenses for which assessments will be made under this subsection, the council shall review the anticipated expenses at a public meeting, notice of which shall be given to each person subject to the assessment, and at which interested persons shall be heard.

(h) With regard to any facility described in subsection (a) of section 16-50i, the council shall, by regulation, establish such fees and assessments as are necessary to meet the expenses of the council and its staff in conducting field inspections of (1) a certified project constructed pursuant to a development and management plan or (2) a completed project for which a declaratory or advisory ruling has been issued.

(1971, P.A. 575, S. 17; P.A. 73-458, S. 12; P.A. 77-276, S. 1, 2; P.A. 81-317, S. 1, 2; 81-369, S. 14, 20; P.A. 82-314, S. 33, 63; P.A. 83-235, S. 5, 6; P.A. 84-249, S. 2, 3; P.A. 85-466, S. 2, 3; P.A. 86-187, S. 3, 10; 86-403, S. 34, 132; P.A. 90-254, S. 2, 3; P.A. 92-232, S. 2, 3; P.A. 93-361, S. 15, 17; 93-435, S. 68.)

History: P.A. 73-458 added Subsecs. (b) and (c) re staff and studies; P.A. 77-276 divided former Subsec. (a) into (a) and (b), redesignating former Subsecs. (b) and (c) accordingly, and clarified expenses of council and detailed manner of meeting expenses by assessments and fees; P.A. 81-317, in Subsec. (a) increased fee assessment ceiling from two to four hundred thousand dollars, required review of council's anticipated expenses by appropriations committee and prohibited use of assessment proceeds for hazardous waste facilities after June 30, 1984, clarified Subsec. (b) and added new Subsec. (c), concerning assessments of applicants for certificates of environmental compatibility and public need; P.A. 81-369 inserted new Subsec. (c) to establish a procedure for assessment for expenses incurred in processing an application for a certificate of public safety and necessity for a hazardous waste disposal facility, relettering remaining Subsecs. accordingly, and made provisions applicable to Ch. 445 proceedings; P.A. 82-314 changed name of appropriations committee; P.A. 83-235 amended Subsec. (d) to repeal the provision requiring that the cost of regulations be assessed among applicants in the first fiscal year that hazardous waste facility applications are filed; P.A. 84-249 relettered subsections, changed deadline in Subsec. (b) for council review of anticipated expenses from June thirtieth to December thirty-first, transferred provisions re filing fees and assessments from Subsec. (c) to Subsec. (e) and added Subsec. (i) re regulations re fees and assessments for field inspections; P.A. 85-466 removed provisions relating to council's proceedings concerning hazardous waste facilities under chapter 445 throughout section, deleting former Subsec. (f) entirely and relettering remaining Subsecs. accordingly; P.A. 86-187 amended Subsec. (b) to increase limit on total assessments for any fiscal year from four hundred thousand dollars to five hundred thousand dollars; P.A. 86-403 made technical changes to Subsecs. (a) and (b); P.A. 90-254 amended Subsec. (b) to increase limit on total assessments

for any fiscal year from five hundred thousand dollars to seven hundred thousand dollars; P.A. 92-232 amended Subsec. (b) to increase limit on total assessments for any fiscal year from seven hundred thousand dollars to one million dollars; P.A. 93-361 made existing Subsec. (b) into Subdiv. (1) and added new Subdiv. (2) re assessment of communications services for expenses of the council, amended Subsec. (d) to include determinations regarding shared use of facility used to provide communications services and amended Subsec. (e) to add reference to notices of modification, effective July 1, 1993; P.A. 93-435 changed the transfer of payments received pursuant to this section from the consumer counsel and public utility control fund to the siting council fund.

See chapter 54 re uniform administrative procedure.

Sec. 16-50w. Conflicting provisions. In the event of any conflict between the provisions of this chapter and any provisions of the general statutes, as amended, or any special act, this chapter shall take precedence.

(1971, P.A. 575, S. 18.)

Cited. 35 CS 303, 307.

Sec. 16-50x. Exclusive jurisdiction of council; exception. Eminent domain after certification. Municipal regulation of proposed location. (a) Notwithstanding any other provision of the general statutes to the contrary, except as provided in section 16-243, the council shall have exclusive jurisdiction over the location and type of facilities and over the location and type of modifications of facilities subject to the provisions of subsection (d) of this section. In ruling on applications for certificates for facilities and on requests for shared use of facilities, the council shall give such consideration to other state laws and municipal regulations as it shall deem appropriate. Whenever the council certifies a facility pursuant to this chapter, such certification shall satisfy and be in lieu of all certifications, approvals and other requirements of state and municipal agencies in regard to any questions of public need, convenience and necessity for such facility.

(b) Whenever the council has certified a facility pursuant to this chapter, any person joining in the application for such certification shall be empowered to exercise its powers of eminent domain, granted by the general statutes or any special act, to acquire property for such facility for the benefit of all persons receiving such certificates.

(c) Whenever the council has certified a facility pursuant to this chapter and the applicant for such certificate thereafter initiates condemnation proceedings to acquire property for such facility, and it shall appear to the court or judge before whom such proceedings are pending that the public interest will be prejudiced by delay, said court or judge may direct that said applicant be permitted to enter immediately upon the property to be taken and devote it temporarily to the public use specified in the application instituting such proceeding upon the deposit with said court of a sum to be fixed by said court or judge, upon notice to the parties of not less than ten days, and such sum when fixed and paid shall be applied to the payment of any assessment of damages which may be made, with interest thereon from the date of such entry upon said property, and the remainder, if any, returned to said applicant. If such application is dismissed, no assessment of damages is made, or the proceedings are abandoned by said applicant, said court or judge shall direct that the money so deposited, so far as it may be necessary, shall be applied to the payment of any damages that the owner of said property or other parties in interest may have sustained by such entry upon and use of such property, including reasonable attorneys', engineers' and appraisers' fees and other reasonable expenses incurred by such owner or other parties in interest in connection with such proceedings, and the costs and expenses of such proceedings. Such damages shall be ascertained by said court or judge or a committee to be appointed for that purpose, and if the sum so deposited shall be insufficient to pay such damages and all costs and expenses so assessed, judgment shall be entered against said applicant for the deficiency to be enforced and collected in the same manner as a judgment in the superior court, and the possession of such property shall be restored to the owner or owners thereof.

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thousand dollars; P.A. 92-232 amended Subsec. (b) to increase the amount from one hundred thousand dollars to one million dollars; P.A. 93-361 amended Subsec. (c) to allow the use of communications services for expenses of the board; P.A. 93-361 amended Subsec. (d) to allow the use of facility used to provide communications services for expenses of the board, effective July 1, 1993; P.A. 93-435 changed the name of the board to the Public Counsel and Public Utility Control Fund to the siting

in the event of any conflict between the provisions of the several statutes, as amended, or any special

Exception. Eminent domain after section. (a) Notwithstanding any other act as provided in section 16-243, the location and type of facilities and over the extent to the provisions of subsection (d) of this act for facilities and on requests for shared facilities to other state laws and municipal laws, the council certifies a facility pursuant to this act in lieu of all certifications, approvals and in regard to any questions of public need.

Notwithstanding to this chapter, any person is empowered to exercise its powers of any special act, to acquire property for such certificates.

pursuant to this chapter and the application proceedings to acquire property before whom such proceedings are delayed, said court or judge may direct upon the property to be taken and the application instituting such proceedings by said court or judge, upon notice to be fixed and paid shall be applied to the same made, with interest thereon from the date, if any, returned to said applicant. If damages is made, or the proceedings are to direct that the money so deposited, so much of any damages that the owner of sustained by such entry upon and use of engineers' and appraisers' fees and other parties in interest in connection with such proceedings. Such damages shall be appointed for that purpose, and if the damages and all costs and expenses so sufficient for the deficiency to be enforced by the superior court, and the possession of the same thereof.

(d) Any town, city or borough zoning commission and inland wetland agency may regulate and restrict the proposed location of a facility as defined in subdivisions (3) and (4) of subsection (a) of section 16-50i. Such local bodies may make all orders necessary to the exercise of such power to regulate and restrict, which orders shall be made within thirty days of any application and shall be in writing and recorded in the records of their respective communities, and written notice of any order shall be given to each party affected thereby. Each such order shall be subject to the right of appeal within thirty days after the giving of such notice by any party aggrieved to the council, which shall have jurisdiction, in the course of any proceeding on an application for a certificate or otherwise, to affirm, modify or revoke such order or make any order in substitution thereof by a vote of six members of the council.

(P.A. 73-458, S. 4; P.A. 75-375, S. 9, 11, 12; P.A. 94-242, S. 7, 9.)

History: P.A. 75-375 clarified extent of council's jurisdiction in Subsec. (a) and clarified agencies included under applicability provision in Subsec. (d); P.A. 94-242 added reference to rulings on requests for shared use of facilities, effective July 1, 1994.

Cited. 212 C. 157, 159.
Cited. 20 CA 474, 476.
Subsec. (a):
Cited. 20 CA 474, 483, 485.
Subsec. (d):
Cited. 20 CA 474, 482-484, 486.

Sec. 16-50y. Location application for electric generating facilities. Section 16-50y is repealed.

(P.A. 73-458, S. 14; P.A. 76-359, S. 5, 7.)

Sec. 16-50z. Acquisition of real property for transmission facility. Regulations.
(a) No person engaged in the transmission of electric power or fuel in the state shall acquire real property in contemplation of a possible future transmission facility, other than a facility for which the council has issued a certificate or one which the council has found will have no substantial adverse environmental effect, except as provided in regulations adopted by the council. Such regulations shall permit such acquisition (1) to avoid hardship for an owner of property; (2) to prevent substantial development along a possible transmission route until it becomes timely for the council to decide whether a certificate should be issued for a transmission facility along that route; and (3) to allow a modification of the boundaries between an existing right-of-way in fee and an adjoining parcel of land, or of the location of an existing easement right-of-way across a parcel of land, for the convenience of the owner of such parcel. Such regulations shall require that any such person intending to acquire such property shall, prior to entering any binding commitment therefor, file with the council a statement describing the property and the reason for its acquisition. Such acquisition may proceed unless the council gives notice within thirty days after such filing that a hearing will be held to review the conformity of the acquisition with its regulations, in which case such acquisition shall not proceed without the approval of the council.

(b) A person engaged in the transmission of electric power or fuel in the state may acquire real property, and exercise any right of eminent domain, granted by the general statutes or any special act therefor, for (1) relocation of a transmission facility or right-of-way required by a public highway project or other governmental action; (2) acquisition of additional rights or title to property already subject to an easement or other rights for electric transmission or distribution lines; or (3) widening a portion, not exceeding one mile in length, of a transmission right-of-way for reasons of safety or convenience of the public.

(P.A. 76-359, S. 6, 7.)

Section distinguishes between acquiring property and exercising "any right of eminent domain." 35 CS 303, 311.

Subsec. (a):

Legislative history indicates "acquire" means "purchase"; authority to condemn to be strictly construed in favor of owner. 35 CS 303, 310-312.

Subsec. (b):

"Acquire" and "eminent domain" distinguished. 35 CS 303, 307, 311, 312.

Sec. 16-50aa. Tower sharing: Policy, requests, feasibility proceeding, compensation, expenses. (a) The general assembly finds that the sharing of towers for fair consideration whenever technically, legally, environmentally and economically feasible, and whenever such sharing meets public safety concerns, will avoid the unnecessary proliferation of towers and is in the public interest.

(b) As used in this section, "facility" means a tower owned or operated for a commercial or public purpose by a person, firm, corporation or a public agency which uses such tower for transmitting or receiving signals in the electromagnetic spectrum pursuant to a Federal Communications Commission license.

(c) (1) A person, firm, corporation or public agency which transmits or receives signals in the electromagnetic spectrum for a commercial or public purpose pursuant to a Federal Communications Commission license may submit a request, on a form specified by the council, to the owner of a facility that the owner permit shared use of the facility. If such an owner agrees to the proposed shared use, the entity which would share the use of the facility shall comply with reasonable conditions established by the owner concerning the use of the facility. The council may arbitrate any issue between the owner of the facility and the requesting entity concerning the establishment of or compliance with any such conditions. An owner of a facility which agrees to shared use of the facility pursuant to this section may request in writing that the council approve the proposed shared use of the facility. If the council finds that the proposed shared use of the facility is technically, legally, environmentally and economically feasible and meets public safety concerns, the council shall issue an order approving such shared use.

(2) If an owner of a facility refuses permission for the proposed shared use, the requesting entity may bring the issue of the proposed shared use to the council. Upon written request by the requesting entity, the council shall initiate a feasibility proceeding to determine whether the proposed shared use is technically, legally, environmentally and economically feasible and meets public safety concerns. A feasibility proceeding shall include a hearing in accordance with the provisions of chapter 54, to be held (A) at a location determined by the council, and (B) not later than ninety days following the council's receipt of the written request for such a proceeding. The council shall provide the owner of the facility, the entity requesting the feasibility proceeding and the municipality in which the facility is located with notice of the proceeding not later than thirty days preceding the hearing. In a feasibility proceeding, the council shall render a decision upon the record, not later than one hundred eighty days following the council's receipt of the written request for such a proceeding, stating whether the proposed shared use of the facility is technically, legally, environmentally and economically feasible and meets public safety concerns. The council shall include appropriate findings in its decision. If the council determines that the proposed shared use of the facility is technically, legally, environmentally and economically feasible and meets public safety concerns, the decision shall include an order requiring the owner of the facility to permit the proposed shared use upon such terms, conditions or limitations as the council determines appropriate.

(d) (1) If a person, firm, corporation or public agency which transmits, receives or will transmit or receive signals in the electromagnetic spectrum for a commercial or public pur-

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feasibility proceeding, compensation for sharing of towers for fair consideration and economically feasible, and when to avoid the unnecessary proliferation of

owned or operated for a commercial public agency which uses such tower magnetic spectrum pursuant to a Federal

agency which transmits or receives signals for public purpose pursuant to a Federal request, on a form specified by the council, for shared use of the facility. If such an agreement is reached, the council shall issue an order to the owner of the facility and the council to comply with any such conditions. The council shall determine if the facility pursuant to this section may be shared use of the facility. If the facility is technically, legally, environmentally safe, the council shall issue an

order for the proposed shared use, the request shall be made to the council. Upon written request for a feasibility proceeding to determine if the facility is technically, environmentally and economically feasible, the council shall include a hearing in the proceeding (A) at a location determined by the council's receipt of the written request. If the owner of the facility, the entity in which the facility is located, or the council, in a feasibility proceeding, shall include a hearing in the record, not later than one hundred days after the written request for such a proceeding, if the facility is technically, legally, environmentally safe, the council shall determine if the proposed shared use of the facility is technically, legally, environmentally safe and economically feasible and meets the order requiring the owner of the facility to comply with any such conditions or limitations as the council

agency which transmits, receives or will use magnetic spectrum for a commercial or public pur-

pose pursuant to a Federal Communications Commission license and the owner of a facility agree to shared use of a facility but cannot agree on fair compensation for the proposed shared use, or if the council, following a feasibility proceeding, orders shared use of a facility but the parties cannot agree on fair compensation for such shared use, the parties may either submit the issue of fair compensation to arbitration or petition the superior court to determine the issue. If the parties submit their dispute to arbitration, they must do so not later than ninety days following the issuance of the council's decision in a feasibility proceeding or conclusion by the parties that they cannot agree on fair compensation, as the case may be. If the parties submit their dispute to arbitration and a party is not satisfied with the ruling of the arbitrator, any party may petition the superior court to determine the issue. If either party petitions the superior court to determine the issue of fair compensation, the petition shall be submitted to the superior court for the judicial district in which the facility is located. The department of public utility control shall accept, absent good cause to the contrary, the ruling of the arbitrator or the decision of the superior court, as the case may be, for rate-making purposes.

(2) If a public service company owns a facility which is used to provide a regulated service and another entity shares or will share the use of such facility pursuant to the provisions of this subsection, the public service company shall incorporate the agreement of the parties, the ruling of the arbitrator or the decision of the superior court, as the case may be, regarding compensation for shared use of the facility in a tariff, special contract or other applicable filing submitted by the owner to the department of public utility control.

(e) The council, in consultation with the parties involved, shall determine the expenses associated with the proceedings set forth in this subsection, except expenses associated with any petition or appeal taken to the superior court, prior to their expenditure. All such expenses shall be borne by the person, firm, corporation, or public agency which seeks shared use of a facility under the provisions of this section.

(P.A. 93-268, S. 2; P.A. 94-242, S. 6, 9.)

History: P.A. 94-242 amended Subdiv. (1) of Subsec. (c) by adding provision re council approval of agreed shared use, effective July 1, 1994.

CHAPTER 278*

RAILROADS AND RAILWAYS

*See Sec. 13b-4b and chapter 245.

Secs. 16-51 to 16-71. Transferred to Chapter 245, Secs. 13b-200 to 13b-210, inclusive, and Secs. 13b-212 to 13b-222, inclusive.

Sec. 16-72. Sunday laws not applicable to electric cars or motor buses. Section 16-72 is repealed.

(1949 Rev., S. 5462; P.A. 76-415, S. 9; 76-435, S. 81, 82.)

Secs. 16-73 to 16-75i. Transferred to Chapter 245, Secs. 13b-223 to 13b-234, inclusive.

EXHIBIT B

Conn. Agencies Regs. §§ 16-50j-71 to 16-50j-73

Secs. 16-50j-63—16-50j-69. Reserved**Community Antenna Television and Telecommunications Towers
Rules of Practice****Sec. 16-50j-70.**

Repealed, March 7, 1989.

Sec. 16-50j-71. Finding

Pursuant to section 16-50i (a) (5) and (6) of the General Statutes, the council finds that each community antenna television tower or telecommunications tower and its associated equipment except as specified in 16-50j-72 (a) may have a substantial environmental effect and therefore is a facility, and any modification, as defined in subsection (1) of section 16-50j-2 of the Regulations of Connecticut State Agencies, to an existing tower site, except as specified in 16-50j-72 (b), may have a substantial adverse environmental effect. (Effective March 7, 1989)

Sec. 16-50j-72. Exceptions

(a) A community antenna television tower or telecommunications tower and associated equipment installed adjacent to a damaged existing tower and associated equipment in order to maintain continuity of community antenna television service or telecommunications shall not constitute a facility provided that:

(1) such tower and associated equipment shall be removed at the earliest practicable time but in no event later than nine months after installation, unless otherwise approved by the council or unless exempt under subsection (b) of this section, in which event the existing damaged tower shall be removed no later than nine months after installation of the new tower;

(2) the owner or operator of such tower and associated equipment shall give the council written notice of the installation or proposed installation of such tower and associated equipment, which notice shall set forth:

(A) the location of such tower and associated equipment,

(B) the reason for its installation, and

(C) the estimated time such tower and associated equipment will remain in place;

(3) the notice shall be given at the earliest practicable time but not later than 48 hours after the installation of such tower and associated equipment; and

(4) the owner or operator of such tower and associated equipment shall restore the site to its original condition as nearly as practical, subject to such other conditions as ordered by the council.

(b) None of the following shall constitute a modification to an existing community antenna television or telecommunications tower that may have substantial adverse environmental effect:

(1) Routine general maintenance and one-for-one replacement of facility components that is necessary for reliable operation;

(2) Changes on an existing tower site that do not increase the tower height, extend the boundaries of the tower site, increase noise levels at the tower site boundary by 6 decibels, and add radio frequency sending or receiving capability which increases the total radio frequency electromagnetic radia-

tion power density measured at the tower site boundary to or above the standard adopted by the State Department of Environmental Protection pursuant to Section 22a-162 of the Connecticut General Statutes; or

(3) Replacement of an existing CATV tower or telecommunications tower and associated equipment with a tower that is no taller than the tower to be replaced and that will not support public service company or state antennas, or antennas to be used for public cellular radio communications emitting total radio frequency electromagnetic radiation power density measured at the tower site boundary to or above the standard adopted by the State Department of Environmental Protection pursuant to Section 22a-162 of the Connecticut General Statutes.

(c) Placement of community antenna television towers and head-end structures, telecommunications towers, and associated telecommunications equipment, owned or operated by the state or a public service company, as defined in Section 16-1 of the General Statutes, or used in a cellular system, as defined in the code of Federal Regulations Title 47, Part 22, as amended, on any existing non-facility tower, shall not constitute a substantial environmental effect when the changes on the existing non-facility tower:

(1) Have received a ruling by the council that such a facility would not cause a significant change or alteration in the physical and environmental characteristics of the site;

(2) Do not extend the boundaries of the site;

(3) Do not increase noise levels at the site boundary by 6 decibels or more;

(4) Do not increase the total radio frequency electromagnetic radiation power density measured at the site boundary to or above the standard adopted by the State Department of Environmental Protection pursuant to Section 22a-162 of the Connecticut General Statutes; and

(5) Have received all municipal zoning approvals and building permits.

(d) The temporary use of cellular equipment shall not constitute a facility provided that:

(1) The temporary use is necessary to provide emergency or essential telephone service to areas of local disaster or events of statewide significance.

(2) Any provider of temporary cellular telephone service for an event of statewide significance shall provide to the council for its approval 30 day advance written notice of the development of such temporary cellular service stating:

(A) The location of the portable site and a letter from the property owner authorizing use of the property for the temporary service;

(B) The height and power density of the portable system;

(C) The estimated time the portable site will be in use; and

(D) The reasons for the installation.

(3) Any provider of temporary cellular telephone service at an area of a local disaster shall provide to the council written notice within 48 hours of the deployment stating:

(A) The location of the portable site and a letter from the property owner authorizing use of the property for the temporary service;

(B) The height and power density of the portable system;

(C) The estimated time the portable site will be in use; and

(D) The nature of the emergency.

(4) In no event shall temporary use of cellular equipment exceed 30 days unless the council grants approval.

(Effective March 7, 1989)

Sec. 16-50j-73. Notice of intent to erect an exempt tower and associated equipment

The owner or operator of any tower and associated equipment claiming such tower and associated equipment is exempt pursuant to section 16-50j-72 shall give the council and the chief elected official of the municipality of the site notice in writing prior to construction of its intent to construct such tower and associated equipment, detailing its reasons for claiming exemption under these regulations.

(Effective March 7, 1989)

Sec. 16-50j-74. Information required

In addition to conforming to section 16-50l, of the General Statutes of Connecticut, an application for a certificate of environmental compatibility and public need for the construction of a new community antenna television tower and head-end structure or telecommunications tower, or modification to an existing community antenna television tower and head-end structure or telecommunications tower, as defined in section 16-50i (a) (5) and (6), shall include or be accompanied by the following:

(a) A description of the proposed tower, modification, or associated equipment including height and special design features, and of access roads and power lines, if any;

(b) A statement of the need for the proposed tower, modification, or associated equipment with as much specific information as is practicable to demonstrate the need;

(c) A statement of the benefits expected from the proposed tower, modification, or associated equipment with as much specific information as is practicable;

(d) (1) The most recent U.S.G.S. topographic quadrangle map (scale 1" = 2000') marked to show the approximate site of the tower, modification, or associated equipment and any significant changes within a one mile radius of the site; and

(2) a map (scale 1" = 200' or less) of the lot or tract on which the tower, modification, or associated equipment is proposed to be located showing the acreage and dimensions of such site, the name and location of adjoining public roads or the nearest public road, and the names of abutting owners and the portions of their lands abutting the site;

(e) (1) Plan and elevation drawings showing the proposed tower, modification, or associated equipment, the antennas and other facilities to be supported, and all associated equipment and structures on the site; and

(2) where relevant, a terrain profile showing the proposed tower, modification, or associated equipment and its related transmitting, receiving, or relaying tower;

(f) A description of the site, including the zoning classification of the site and surrounding areas;

(g) A description of the land uses of the site and surrounding areas;

(h) A description of the scenic, natural, historic, and recreational characteristics of the proposed site and surrounding area;

(i) A statement in narrative form of the environmental effects of the proposed tower, modification or associated equipment;

(j) A statement containing justification for the site selected including a description of siting criteria and the narrowing process by which other possible sites were considered and eliminated;

(k) A statement of the estimated cost for site acquisition and construction of the tower, modification, or associated equipment;

(l) A schedule showing the proposed program of site acquisition, construction, completion, and operation;

(m) The names and mail addresses of the owner of the site and all abutting owners;

(n) A listing of any federal, state, regional, district, and municipal agencies with which reviews were conducted concerning the tower, modification, or associated equipment, including a copy of any agency position or decision with respect to the tower, modification, or associated equipment;

(o) Where relevant, a list of all towers and associated equipment within a 10-mile radius of the proposed tower, modification, or associated equipment which are owned or operated by a public service company or the state;

(p) A description of technological alternatives and a statement containing justification for the proposed facility;

(q) A description of alternate sites for the proposed tower, modification, or associated equipment with the following information:

(1) a U.S.G.S. topographic quadrangle map (scale 1" = 2000') marked to show the location of alternate sites;

(2) a map (scale 1" = 200' or less) of the lots or tracts of the alternate sites for the proposed tower, modification, or associated equipment showing the acreage and dimensions of such site, the name and location of adjoining public roads or the nearest public road, and the names of abutting owners and the portions of their land abutting the alternate site; and

(3) such additional information as would be necessary or useful to compare the costs and environmental impacts of the alternate sites with those of the proposed site; and

(r) A statement describing hazards to human health, if any, with such supporting data or references to authoritative sources of information as will be helpful to the understanding of all aspects of the issue, including signal frequency and power density at the proposed site to be transmitted or received by the proposed facility.

(Effective March 7, 1989)

**Cable Antenna Television Tower and
Telecommunications Tower and Associated Equipment
Development and Management Plan**

**Sec. 16-50j-75. Requirement for a development and management plan
(d&m plan)**

(a) Purpose. The council may require the preparation of full or partial d&m plans for proposed cable antenna television or telecommunications towers and associated equipment or a modification to an existing tower site where the preparation of such a plan would help significantly in balancing the need for adequate and reliable utility services at the lowest reasonable cost to consumers with the need to protect the environment and ecology of the state.